



L. JOYCE HAMPERS
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

May 11, 1982

Corporation ("Company") is a Connecticut corporation with its sole place of business in Connecticut. The Company is engaged in the business of manufacturing small trailers designed to be pulled by compact and sub-compact cars. The Company is not a registered Massachusetts vendor. You inquire about the Company's Massachusetts sales and use tax collection responsibilities.

The Company solicits orders in Massachusetts for the sale of the trailers by advertising in magazines and by direct mail. Customers in Massachusetts order the trailers by mail or by telephone. The trailers are shipped to the customers by common carrier.

Massachusetts General Laws Chapter 64H, Section 2 imposes an excise upon sales at retail of tangible personal property in the Commonwealth by any vendor.

Chapter 64I, Section 2 imposes an excise upon the storage, use or other consumption in the Commonwealth of tangible personal property purchased from any vendor for storage, use or other consumption within the Commonwealth.

Chapter 64H, Section 3(c) and Chapter 64I, Section 4 provide that the sales and use taxes imposed upon trailers shall be paid by the purchaser to the Registrar of Motor Vehicles. Such Sections also provide that the vendor shall not add the tax to the sales price and shall not collect the tax from the purchaser. These Sections do require the vendor to furnish to the purchaser, the Registrar of Motor Vehicles

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and the Commissioner of Revenue a sworn statement of the sale. To comply with this requirement, the vendor must report to the Commissioner of Revenue in accordance with Subsection 8 of Sales and Use Tax Regulation 830 CMR 64H.02 ("Motor Vehicles").

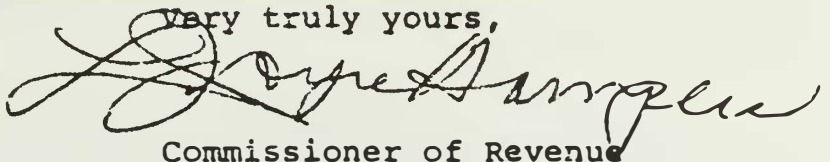
A vendor must meet the requirements of the Massachusetts sales and use tax laws if he is "engaged in business in the commonwealth." Chapter 64H, Section 1(5) defines "engaged in business in the commonwealth" as including

"having a business location in the commonwealth; regularly soliciting orders for the sale of tangible personal property by salesmen, solicitors, or representatives in the commonwealth, unless such activity consists solely of solicitation by direct mail or advertising via newspapers, radio or television; or regularly engaging in the delivery of property in the commonwealth other than by common carrier or United States mail."

Based on the foregoing, it is ruled that the Company is not required to collect the Massachusetts sales and use taxes from the purchasers of the trailers; the purchasers must pay the tax to the Registrar of Motor Vehicles.

If the Company engages in business in Massachusetts within the meaning of Chapter 64H, Section 1(5), it must register as a vendor and notify the Commissioner of Revenue of its sales of trailers in accordance with Subsection 8 of Sales and Use Tax Regulation 830 CMR 64H.02. I am enclosing a copy of Subsection 8.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Joseph A. Anglin", is written over the typed name of the Commissioner of Revenue.

Commissioner of Revenue

LJH:JD:mf

LR 82-46